

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KENNETH THUNDERBIRD,

Civil No. 08-1404-PK

Plaintiff,

ORDER

v.

OREGON STATE DEPARTMENT OF
CORRECTIONS Employees, Agents,
Agencies, Public Entity; et al.,

Defendants.

HAGGERTY, District Judge:

Magistrate Judge Papak has issued a Findings and Recommendation [148] in this action. The Magistrate Judge recommended granting in part and denying in part defendants' Motion to Dismiss [110]. The Magistrate Judge also recommended denying plaintiff's motion for an expert [133], plaintiff's compelling motion [134], and plaintiff's motion for default judgment [142]. No objections were filed, and the case was referred to this court.

The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate. *Campbell v. U.S. Dist. Ct.*, 501 F.2d 196 (9th Cir. 1974).

No clear error appears on the face of the record. Accordingly, this court adopts the Findings and Recommendation in its entirety.

CONCLUSION

The Findings and Recommendation [148] is adopted. Defendants' Motion to Dismiss [110] is GRANTED IN PART AND DENIED IN PART. This case shall proceed on the following claims:

(1) plaintiff's Eighth Amendment § 1983 claim against Dr. Gulick, sued in his personal capacity, based upon the following actions:

(A) his reduction of Neurontin in December 2007;

(B) his prescription of Propranol in April 2008; and

(C) his refusal to reasonably accommodate plaintiff's requests for sweat pants on or about February 2008.

(2) plaintiff's Eighth Amendment § 1983 claim against Dr. Gulick, sued in his personal capacity, based upon the deprivation, denial, or confiscation of plaintiff's tinted eyeglasses in February 2008.

All remaining claims and defendants are dismissed. Plaintiff's motion for an expert [133], plaintiff's compelling motion [134], and plaintiff's motion for default judgment [142] are DENIED.

IT IS SO ORDERED.

DATED this 20th day of July, 2011.

/s/ Ancer L. Haggerty

Ancer L. Haggerty
United States District Judge